



## WALKUP, MELODIA, KELLY & SCHOENBERGER

*Founded in 1959*

January 8, 2016

The Honorable Charles R. Breyer  
United States District Court  
450 Golden Gate Avenue  
San Francisco, CA 94102

**Re: In Re Volkswagen "Clean Diesel" Marketing, Sales Practices,  
and Product Liability Litigation  
MDL No. 2672**

Your Honor:

Pursuant to Pre-trial Order No. 2, please accept this application for a steering committee position by Walkup, Melodia, Kelly & Schoenberger. Specifically, partners Michael Kelly or Khaldoun Baghdadi would be privileged to represent our firm on that committee, with the goal of serving the interests of vehicle owners. We have filed the cases of *Lemen v. Volkswagen Group of America*, Case No. 2:15-cv-07292-JLL-JAD, and *Hall v. Volkswagen Group of America*, Case No. 3:15-cv-00117.

Our historic approach to prosecuting plaintiffs' claims is premised upon thorough preparation for trial with the hope that settlement will result. Here, given the admissions made by the defendants, we agree with the Court that it makes no sense to start from square one. If appointed by the Court, our approach would be to immediately define the scope of the defect, manage and conduct (confirmatory) discovery, assess the damages, and work towards an expeditious result that fairly compensates those consumers who have been deceived.

Our firm has handled many automotive defect claims against Volkswagen, as well as Japanese and domestic automakers. We understand the engineering. We also have the skills necessary to understand why complex products fail. Moreover, we recognize that a successful product defect claim often requires an understanding of how the defective product should be fixed. That approach makes particular sense here, given the number of consumers still driving these cars.

With regard to cooperation, we believe that regardless of size and scope of this case, the level of civility between counsel should replicate that of a single-plaintiff trial. Credibility is the core and requisite element for sustained success as a trial lawyer, and we value the candor and trust we share with members of the plaintiff and defense bar.

We also believe credibility is key to our service as officers of the Court. We value the economy of language, and recognize that brevity can often be the best means of conveying an

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argument. Finally, given the submissions made to date by other counsel of significant skill and experience, we welcome the opportunity to work with some of the finest lawyers in the country.

Michael Kelly has tried cases to verdict throughout the United States. He has been recognized by his peers as a leader in the plaintiff's bar. He received the 2014 Trial Lawyer of the Year award from the California chapter of the American Board of Trial Advocates. He served as lead counsel in the California Coordinated Proceedings (JCCP) in the DePuy ASR Hip System Cases. In that capacity, he was lead trial counsel the first case brought to trial (*Kransky v. DePuy*, LASC Case No. BC456086). The successful verdict played a significant role in the ultimate global resolution of the ASR Cases. The settlement has an approximate global value of \$3 billion. Mr. Kelly has served as a faculty member at the University of California, Hastings College of Law, teaching in areas of Personal Injury Litigation and Litigation Advocacy. He also serves on the national plaintiffs steering committee in the In Re Bard IVC Filters Products Liability Litigation, MDL Case No. 2:15-md-02641-DGC, and the In Re Yosemite National Park Hantavirus Litigation, MDL Case No. 3:14-md-02532-MMC.

Khaldoun Baghdadi has been with the Walkup firm for 18 years. He has served as lead trial counsel in cases brought to verdict in the areas of consumer device, medical negligence and insurance disputes. He serves as a faculty member teaching trial advocacy at the University of California, Berkeley School of Law. Mr. Baghdadi served as a member of the leadership/steering committee in the MDL In Re Mentor Corp. ObTape Trasobturator Sling Products Liability Litigation, MDL Case No. 4:08-MD-2004 (CDL). He currently serves on the Plaintiff's Steering Committee for the In Re DePuy Orthopaedics, Inc, Pinnacle Hip Implant Products Liability Litigation, MDL Case No. 3:11-md-02244-K. He also serves on the plaintiff's Settlement Oversight Committee on the In Re DePuy Orthopaedics ASR Hip Implant Products Liability Litigation, MDL Case No. 1:10-md-0297-DAK.

The presiding judges for these matters may be reached as follows:

Case Title	Judge(s)
In DePuy ASR Hip System Cases  JCCP Case No. CJC-10-004649	The Honorable Richard Kramer (ret.) JAMS Two Embarcadero Center, Suite 1500 San Francisco, CA 94111 (415) 982-5267
	The Honorable Mary Wiss San Francisco Superior Court, Department 305 San Francisco, CA 94102 (415) 551-3732

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In Re DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation  MDL Case No. 1:10-md-0297-DAK	The Honorable David Katz United States District Court, Northern Dist. of Ohio Toledo, Ohio 43604-1363 (419) 213-5710
In Re Yosemite National Park Hantavirus Litigation  MDL Case No. 3:14-md-02532-MMC	The Honorable Maxine Chesney United States District Court, Northern Dist. of CA 450 Golden Gate Avenue, Courtroom 7, 19 <sup>th</sup> Floor San Francisco, CA 94102
In Re Bard IVC Filters Products Liability Litigation  MDL Case No. 2:15-md-02641-DGC	The Honorable David G. Campbell United States District Court, Dist. of Arizona Phoenix, AZ 85003-2156 (602) 322-7645
In Re Mentor Corp. Obtape Transobturator Sling Products Liability Litigation  MDL Case No. 4:08-md-2004 (CDL)	The Honorable Clay D. Land United States District Court, Middle Dist. of Georgia Columbus, Georgia 31902 (706) 649-7812
In Re DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation  MDL Case No. 3:11-md-02244-K	The Honorable Ed Kinkeade United States District Court, Northern Dist. of Texas Dallas, Texas 75242-1003 (214) 753-2720

Both Mr. Kelly and Mr. Baghdadi have the resources and skill to prosecute this case in a timely manner. Should one of us be asked to serve, we would be able to immediately commit whatever time is necessary for this case. Finally, we attach a list of other attorneys who support appointment to the steering committee.

Respectfully submitted,

*/s/ Michael A. Kelly*

MICHAEL A. KELLY

*/s/ Khaldoun A. Baghdadi*

KHALDOUN A. BAGHDADI

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